

in-teg-ri-ty
ACCOUNTABILITY
RESPONSIBILITY
HONESTY **ETHICS**

UPRIGHTNESS
VIRTUE
TRANSPARENCY
Prudence
TRUSTWORTHINESS

THE OFFICE OF THE
INTEGRITY
COMMISSIONER
OF ONTARIO

ANNUAL REPORT 2011-2012

in-teg-ri-ty

Legislative
Assembly
of Ontario



Assemblée
législativ
de l'Ontario

Office of the Integrity Commissioner
Lynn Morrison, Commissioner

Bureau du commissaire à l'intégrité
Lynn Morrison, Commissaire

June 2012

The Honourable Dave Levac
SPEAKER OF THE LEGISLATIVE ASSEMBLY OF ONTARIO

Dear Mr. Speaker:

It is an honour to present the Annual Report of the Office
of the Integrity Commissioner for the period April 1, 2011,
to March 31, 2012.

Yours very truly,

A handwritten signature in cursive script that reads "Lynn Morrison".

Lynn Morrison
INTEGRITY COMMISSIONER

**ANNUAL
REPORT**

**OFFICE OF THE INTEGRITY
COMMISSIONER**

2011 / 2012

Introduction

eth-ics /and integrity are at the heart of public confidence in government. The Office of the Integrity Commissioner is impartial, believing that good leadership fosters an ethical culture. The Office works to reconcile private interests and public duties, promoting confidence and respect for Ontario's Legislative Assembly and the Ontario Public Service.

in-teg-ri-ty

in-teg-ri-ty

TABLE OF CONTENTS

IFC	Letter to the Speaker
3	Commissioner's Message
7	MPP Integrity
14	Ministers' Staff – Ethical Conduct
17	Expenses Review
20	Disclosure of Wrongdoing
26	Lobbyists Registration
30	Outreach & Financial Statement

COMMISSIONER'S MESSAGE



Lynn Morrison / Integrity Commissioner

Public trust in government is fragile, and the accountability measures that underpin this Office's legislative mandates are one clear way to encourage a culture of integrity in the public sector. One of my goals this year was to connect with the public and our many stakeholders and inform them about the Office's work. I have trained lobbyists and constituency office assistants, and met with the chairs of agencies. I have met with MPPs new to public service as well as those re-elected or leaving for new careers. And I have consulted with public servants in an effort to learn how to better fulfill my mandate under the disclosure of wrongdoing framework.

A great deal of our work is based on applying rules: ensuring that public servants avoid conflicts of interest, that they spend taxpayers' money wisely when travelling on official business, that lobbyists provide all required information, etc. But our work is about more than just following the rules. It's about doing the right thing. When applying the rules, I always ask "What makes sense?" I have spent much of my time delivering this message and working to ensure that all our stakeholders understand why it is important to follow the rules and how this attention to detail can make a difference in public trust.

ACCOUNTABILITY

MEMBERS' INTEGRITY

Ontario's Members of Provincial Parliament are comfortable coming to my Office with questions, knowing that they benefit from our more than 20 years' experience of providing conflict of interest advice — advice that will help them with the increasingly complex challenges of serving their constituents.

With the election of a new government on October 6, 2011, my Office launched a communications campaign for new and returning MPPs to explain how we can support them in serving their constituents. The Legislative Assembly welcomed 31 new members, each of whom was provided with an information kit to guide them on everything from how to use my Office as a resource on conflict of interest issues to how to submit their annual private disclosure statement.

As part of the financial disclosure process, through the winter months I met with all MPPs to discuss the Act and review their financial holdings. This is time well spent as it provides an opportunity to reflect on conflict of interest questions and discuss the challenges of public life. Many MPPs accepted my offer of staff training sessions, which continue to keep us very busy. I thank all MPPs for their time in meeting with me.

Section 30 of the Act provides for one member to file a complaint about another. I received one complaint under the Act in 2010–2011, and completed my report in June 2011. The complaint focused on the actions of a firm that had been hired by an MPP. The full report is available on our website, but its conclusions bear emphasizing that all members must be mindful that they are responsible for the actions of their agents.

LOBBYISTS REGISTRY

I continue to push for a thoughtful and considered review of the *Lobbyists Registration Act, 1998*, and have presented my case to the government, as well as to the leaders of the two opposition parties. My Office has undertaken a thorough review of the legislation in other jurisdictions, and will be prepared to participate meaningfully in any proposals for change in Ontario.

As part of this initiative, I was particularly busy in my role as the province's Lobbyists Registrar, appearing as a speaker before industry, academic

and peer groups. We have reviewed and updated our information materials, and prepared new interpretation bulletins to help lobbyists navigate the registration process. All of these materials are available on our website. My Office launched education sessions for lobbyists in Toronto and Ottawa, and due to positive feedback we have made the sessions a permanent part of our calendar. I value the feedback received from lobbyists at these meetings, and have taken their comments into account as my Office works toward a review of the Act.

EXPENSES REVIEW

Our work this year can be summed up in two words: culture change. I have seen very clearly how accountability legislation can lead to changes in behaviour.

This has been especially evident in the expenses reviews conducted of Ontario's 22 largest agencies, boards and commissions under the *Public Sector Expenses Review Act, 2009*. We have reviewed travel, meal and hospitality expenses for this group for approximately 18 months, and have seen improvements with each batch of claims that is delivered. The scrutiny helps minimize the potential for expense claim abuse, and underscores the importance of wisely managing travel and hospitality budgets.

The addition of a second expenses review assistant has helped the team make good progress in working through the high volume of claims. Education and outreach play an important role in these mandates. Promoting positive relationships with our stakeholders has allowed us to proactively provide advice and resources, and to educate in areas of concern.

The election-related turnover of political staff resulted in increased training activity for all those who fall under the *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002*. This included in-depth training sessions and the provision of briefing materials and resources to explain the rules. I am happy to report that members of this group understand the necessity to ensure public dollars are spent prudently.

HONESTY

MINISTERS' STAFF

Election-related staff turnover in Ministers' offices also resulted in a substantial increase in the number of post-employment meetings conducted by my Office. The rules for former public servants are important, including restrictions on lobbying and where they can work. We meet with departing staffers, providing a clear overview of their obligations and restrictions as they leave for new jobs. One measure of our success is the number of former staffers who call for advice as they settle into their new places of employment.

In addition, we provided outreach sessions for people working in Ministers' offices, advising them on conflict of interest issues, political activity, educating them about the *Lobbyists Registration Act, 1998*, and assisting with the administrative responsibilities related to submitting their expenses to my Office for review.

As with my work with MPPs, I have noticed a growing complexity in the conflict of interest questions I receive. The cases frequently take more time to resolve, but I am grateful to see how many people came forward to seek my advice. This is compelling evidence that Ministers' staff are aware of the issues and keen to ensure that they comply fully with their obligations in public service.

DISCLOSURE OF WRONGDOING

Public servants must have a clear avenue to raise issues about misconduct they witness at work. Ideally, they should feel confident making disclosures internally. When this is not appropriate, they can come to my Office.

In this fourth full year of operation under the disclosure of wrongdoing framework, we increased our efforts to communicate clearly with disclosers about their expectations of the process, and refined our interpretation of terms and definitions under the legislation. We continue to test our ability to take as informal an approach as possible to getting the job done.

I encourage public servants to have confidence in deputy ministers and public body chairs to deal properly with disclosures of wrongdoing. And I encourage senior officials to earn the trust of the public servants whom they lead. As I have said before, my Office should be one of last resort.

This year, we completed a small-scale consultation to better understand the experiences of the disclosers, witnesses and government officials who receive referrals of disclosures of wrongdoing from this Office. The results confirmed that senior Ontario Public Service officials are equipped and intend to deal properly with disclosure of wrongdoing. I continue to advocate for internal disclosure whenever possible.

However, I also learned that there are other realities of public sector employment that put strains on the relationship of trust I expect between public servants and their superiors. The public service is a large organization, and many employees feel disconnected from the top. In particular, public servants lose trust in their superiors because of actual or perceived mismanagement in the area of human resources, such as hiring or handling complaints about harassment. Poor management in relation to human resources, in the absence of conflicts of interest, is not normally a subject under my jurisdiction. However, the lack of trust that it causes discourages public servants from using the disclosure of wrongdoing mechanism.

The consultation continues to inform our work and has prepared us for the upcoming statutory review, which is required to take place five years after the provisions came into force (August 2007). I look forward to participating in this important next step in the development of the province's disclosure of wrongdoing framework.

UPRIGHTNESS

NON-JURISDICTION CONFLICT OF INTEREST ADVICE

I am often asked for conflict of interest advice by other Officers of the Legislative Assembly, as well as the chairs of some agencies which are not covered by the jurisdiction of the Conflict of Interest Commissioner. While this work does not fall within my legislated mandates, I am happy to discuss these issues and offer advice to help my colleagues meet high ethical standards as they fulfill their responsibilities.

OPERATIONS

My Office grew to 13 people this year, as we added a second expenses review assistant to help review the Top Five expense claimants from agencies, boards and commissions. We also refocused the responsibilities of our Inquiries Officers, making sure we provide all stakeholders with knowledgeable and ready advice in our key mandate areas.

We have also been busy administratively this year with two major projects. We have implemented uniform records and information management policies and procedures across all mandates, and we are continuing our work to update our information technology system. Through this project we are evaluating how to efficiently meet the needs of all stakeholders. This has resulted in a positive process of constant improvement, which I am confident will yield substantive benefits in the coming year.

We are a small office, focused on serving our stakeholder groups with timely, professional services and advice. I would like to thank the members of my staff for their continued hard work and dedication.

ETHICS

in-teg-ri-ty
ACCOUNTABILITY
RESPONSIBILITY
HONESTY **ETHICS**

VIRTUE UPRIGHTNESS
TRANSPARENCY
Prudence
TRUSTWORTHINESS

MPP Integrity

The Integrity Commissioner advises
MPPs on conflicts of interest and
ethical behaviour.

MANDATE

The Integrity Commissioner has three key responsibilities under the *Members' Integrity Act, 1994*:

- RECEIVE inquiries and offer confidential advice on ethical issues raised by MPPs;
- OVERSEE the annual private disclosure statements, meeting with each MPP to discuss the information, and filing a public version of this material with the Clerk of the Legislative Assembly; and
- CONDUCT inquiries into alleged violations of the Act, when raised by one MPP about another.

OVERVIEW

With the election of a new government on October 6, 2011, the Office launched a comprehensive communications campaign to help MPPs meet their obligations under the *Members' Integrity Act, 1994*. All members and their staff received information packages on the Commissioner's mandates and responsibilities, and briefings were conducted to familiarize new members with the rules. The materials were well received, and resulted in a notable increase in calls and inquiries as people became acquainted with new responsibilities. The Office received 261 confidential inquiries from MPPs, their staff and members of their families.

FINANCIAL DISCLOSURE

The Commissioner met with all members through the winter to discuss their private financial disclosures, which were due 60 days from the election date.

These meetings provide members with an opportunity to discuss conflict of interest and other issues with the Commissioner. This year the Commissioner provided information on a variety of topics, including advising Ministers on which investments are permitted under the Act and explaining the gift rules, as well as guidelines for political activity, fundraising and the use of social media. The Commissioner also held a number of post-employment briefings with departing members, offering her advice and guidance as they left public office.

Financial disclosure statements from each of Ontario's 107 MPPs were filed with the Clerk of the Legislative Assembly on March 5, 2012. Copies of the public disclosure statements can be obtained from the Clerk, and are also found on the Office's website.

TRANSPARENCY

in-qui-ries

The following inquiries are a sample of the questions received by the Commissioner. These summaries are published to help MPPs identify circumstances that could raise issues under the Act. They are abbreviated and anonymized, and are intended to raise awareness. They should be used only as a reference tool. It is important to remember that each opinion is based on its own disclosed facts. The examples should not be considered a substitute for calling the Office.

LETTERS OF REFERENCE AND SUPPORT

MPPs are routinely asked to provide letters of reference for constituents. As a general guideline, the Commissioner recommends that a letter be provided only under the following conditions:

1. The MPP knows the individual involved.
2. The MPP maintains as much control over the letter as possible. Never prepare a letter addressed "To Whom it May Concern." The MPP should also ensure that the letter is mailed directly to the intended recipient and may wish to not provide a copy to the person or organization that is the subject of the letter.
3. The MPP uses appropriate letterhead.
4. The MPP's letter should not be generic, but rather as specific as possible to the matter at hand. It should directly discuss the individual, organization or cause and should address the reason(s) for which the letter is being proffered.

Q A constituent was applying to a U.S. university and asked the MPP to provide a letter of reference. The constituent provided a sample letter. The MPP did not know the constituent. Could the member provide the letter?

A *OPINION The Commissioner advised that the MPP not provide the letter because the MPP did not know the person making the request. There is no obligation on the part of MPPs to provide letters of reference to constituents.*

Q An organization in the community was issuing a news release, and wanted the MPP to provide a quote supporting the organization's work. The MPP had no direct involvement with the organization. Could the MPP provide a quote?

A *OPINION The inclusion of a quote in the news release could be interpreted as an endorsement of the organization. The Commissioner advised that the MPP should provide the quote only if he/she was comfortable being identified with the organization. Since the MPP had no specific knowledge of the organization's work, he/she was advised not to provide the quote.*

Q The friend of a Minister asked for a letter of reference, which was to be used as a supporting document in a court appearance. Could the Minister provide the letter?

A *OPINION While the Minister knows the individual well, the Commissioner advised that any involvement might be interpreted as an attempt to interfere with and/or influence the legal process, contrary to the Act. The Commissioner advised that the Minister abstain from providing a character reference unless compelled to do so by subpoena.*

VIRTUE

GIFTS

From gift baskets to coffee gift cards from grateful constituents, MPPs are offered a large number of gifts each year. Not all are acceptable, however.

The Act permits MPPs to accept gifts or benefits under limited circumstances. Gifts are permitted if they are given as part of the protocol, customs or social obligations that normally accompany the responsibilities of office. As well, an MPP can accept a gift or benefit if the circumstances are disclosed to the Commissioner and the Commissioner is of the opinion that the gift is unlikely to give rise to a reasonable presumption that it was given in order to influence the MPP in the performance of his or her duties. All gifts with a value of more than \$200 must be disclosed and appear on each MPP's public disclosure statement.

There is a misconception that any gift under \$200 is acceptable; this is not the case.

First, the gift must be considered appropriate. Then, if the value exceeds \$200, it must be disclosed.

Some gifts may be valued at less than \$200, but can still be deemed unacceptable and should be returned.

When an MPP is offered a gift, he/she should ask the following questions:

- Who is giving me this gift or benefit and why?
- Is the acceptance of this gift part of my duties?
- Could this gift or benefit be reasonably perceived as being given to influence me in the exercise of my official responsibilities?
- Is there an expectation that I will do something for the donor in return for receiving this gift?

MPPs should avoid circumstances where a reasonable person might conclude that a gift or benefit was given with an intention to influence them in carrying out their duties.

Q An entertainment company sent an MPP a letter of introduction with information about its services, and included two free passes to a show. The company was a government stakeholder. Could the MPP accept?

A **OPINION** No. The passes were not given as part of the protocol, customs or social obligations that normally accompany the responsibilities of office. The member was advised to return the passes.

ACCOUNTABILITY

PUBLIC STATEMENTS

There are no clear provisions in the Act addressing public statements. The Commissioner is aware that issuing an opinion that a member ought not to make a public statement can restrict the member's freedom of expression and lead to tension within the member's constituency. The Commissioner is also aware that there are a number of valid reasons why a member may not be in a position to make a public statement, none of which are to be found in the Act. For these reasons, the Commissioner provides the following general advice.

When making public statements:

- all MPPs should be cautious of undermining the public confidence in processes established by statutory decision makers in Ontario;
- a public statement may be perceived by the public or a decision-making body as a form of advocacy and there are clear rules for members, Ministers and parliamentary assistants regarding advocacy;
- an MPP can reduce the risk of his or her comments being construed as advocacy by clearly stating that he or she does not intend to influence the decision maker and respects the process underway;
- an MPP can limit his or her comments to summaries of feedback and information the member has received from constituents or other stakeholders; and,
- there may be valid reasons why a member, Minister or parliamentary assistant cannot make a public statement (for example, if a statement risks revealing a legal strategy, confidential information or personal information). In these cases it is best to explain why the MPP has decided not to make a public statement.

Can an MPP speak to the media about a matter that is before the Ontario Municipal Board?

OPINION Yes. It is perfectly acceptable for an MPP to express an opinion and/or provide information about policies, procedures and/or the status of matters.

A member should, however, be mindful of s.4 of the Act, which states that "[a] member of the Assembly shall not use his or her office to seek to influence a decision made or to be made by another person so as to further the member's private interest or improperly to further another person's private interest." As such, if a member wishes to take a position on a matter that is before the OMB, they should be careful that statements do not give the impression that the member is intending to interfere in the processes and procedures that are in place. A member can reduce the risk of giving such an impression by stating clearly that his or her statements are not intended to influence the outcome of the decision maker. A member should also refrain from expecting or giving the impression (to a constituent or the media) that he/she expects the relevant decision makers to provide anyone with preferential treatment.

RESPONSIBILITY

ADVOCACY

Q A constituent has asked for a member's support regarding an issue that is before the local Children's Aid Society. The constituent has legal counsel, and the matter is before the court. Could the member offer support?

A **OPINION** The Commissioner advised that as the constituent is represented by counsel, it is counsel's responsibility to take the steps necessary. Any involvement by the MPP could be interpreted as an attempt to inappropriately influence the process, contrary to the Act.

Q A constituent wants an MPP, who is also a Minister, to advocate for the inclusion of a particular drug in the Ontario Drug Program. Could the Minister advocate?

A **OPINION** No, the Minister should not appear as an advocate or supporter about a decision to be made within a ministry on a matter for which there is an established process. This conduct could be perceived as, or give rise to, an appearance of inappropriate influence, which is not permitted.

ACTIVITY DURING THE WRIT PERIOD

Q After the writ was dropped, a Minister wondered what to do if ministerial business arose while he/she was on the campaign trail.

A **OPINION** While MPPs are no longer in office once the writ is dropped, Ministers continue to serve. The Commissioner advised that the Minister should always be careful about distinguishing between his/her candidacy and ministerial duties. In the event someone posed a question about the ministry, the Minister was advised to provide contact information so that the answer could be provided by the Minister's office.

Q An MPP has regularly issued a letter of congratulations to a local organization on its anniversary. The letter appears in a flyer produced by the organization. This year, the occasion fell within the writ period. Can the MPP write the letter, knowing it will appear after the writ has been dropped?

A **OPINION** As an election campaign was in progress, the MPP no longer holds office. The Commissioner advised that it would be inappropriate for a letter to appear signed by the MPP.

Q Can an MPP sign congratulatory scrolls for birthdays, anniversaries, etc. during the writ period, for events that fall during the period?

A **OPINION** As the MPP would no longer hold office during that period, the Commissioner advised that it would be inappropriate for the member to sign as an MPP.

UPRIGHTNESS

CHARITABLE ACTIVITY

Q An MPP is an honorary ambassador for a local charity, tasked with contacting local organizations and asking for donations. Is this acceptable?

A *OPINION The Commissioner advises that members should not participate directly in raising funds for constituency organizations. The Commissioner recommended that the member find a way to take part in the organization's events without being responsible for fundraising.*

MISCELLANEOUS

Q Can an MPP use his/her Facebook page to publicize a political fundraising event?

A *OPINION The Commissioner advised that this would be acceptable, providing there are no links from the publicly funded constituency website to the member's Facebook page. There should also be no promotional material advertising the member's Facebook page in or around the member's constituency office(s).*

Q A local business has offered to provide an MPP's constituency office some services free of charge. Is this acceptable?

A *OPINION No. The Commissioner advised that members should be cautious when partnering with companies in their ridings. They must remember that they represent all constituents and organizations, and there may be others in the riding offering similar services. The Commissioner advised the MPP that if he/she wished to obtain these services, that the office issue a request for proposals before selecting a service provider.*

SECTION 30 REPORT

In the 2010–2011 fiscal year, the Integrity Commissioner received a complaint under section 30 of the Act, which allows one MPP to complain about the actions of another. In this case, the Commissioner was asked by MPP Rick Johnson (Haliburton-Kawartha Lakes-Brock) to investigate whether MPP Randy Hillier (Lanark-Frontenac-Lennox and Addington) breached Ontario parliamentary convention in relation to his website and an email campaign unrelated to Mr. Hillier's constituency responsibilities. The Commissioner's report was filed with the Speaker on June 6, 2011, and is available on the Office's website.

HONESTY

in-teg-ri-ty

ETHICS

ACCOUNTABILITY

RESPONSIBILITY

HONESTY

Ministers' Staff

ETHICAL CONDUCT

The Integrity Commissioner provides Ministers' staff with advice on conflicts of interest, political activity and post-service employment issues.

UPRIGHTNESS

VIRTUE

TRANSPARENCY

Prudence

TRUSTWORTHINESS

MANDATE

As Ethics Executive for Ministers' staff, the Integrity Commissioner makes determinations about conflict of interest, political activity and post-service employment issues.

The standards applicable to Ministers' staff are found in the *Public Service of Ontario Act, 2006*, sections 66–69 and 94–98, and in *Conflict of Interest Rules for Public Servants (Ministers' Offices) and Former Public Servants (Ministers' Offices)*, Ontario Regulation 382/07.

OVERVIEW

The Office received 112 inquiries from Ministers' staff this year, of which 66 were about post-employment issues. This compares with 82 inquiries in 2010–2011, of which 48 concerned post-employment. The increase

can be attributed to the turnover resulting from the fall election, as well as the education sessions, which were offered to all Ministers' staff.

POST-EMPLOYMENT MEETINGS

Public servants who leave the government's employ are required to comply with post-service obligations and restrictions, which include the following:

1. an ongoing duty not to seek preferential treatment or disclose or use confidential information;
2. a 12-month restriction on lobbying any ministry that the public servant was employed with in the 12 months prior to leaving public service;
3. a potential restriction against accepting employment with an entity, person, or public body in which a public servant (a) had substantial involvement, and (b) had access to confidential information that could harm the Crown or give the entity an advantage; and
4. an ongoing restriction against advising any entity about a specific proceeding, negotiation or transaction about which the public servant advised the Crown.

In order to help Ministers' staff meet these obligations, Office staff meet with Ministers' staff to review the rules and discuss any issues related to job searches or prospective employment. Ministers' staff are fully briefed on the employment and lobbying restrictions, and provided with reference materials. After the meeting, the Commissioner sends each person a letter summarizing obligations of former staff; a copy is also sent to the individual's former Minister.

MINISTERS'
STAFF

ETHICS

in-qui-ries

The following inquiries represent a selection of questions received by the Integrity Commissioner from Ministers' staff in the past year. The examples are abbreviated and anonymized. The Commissioner's directions and advice in these summaries were provided based on specific facts. It is expected that Ministers' staff will contact the Office for their own guidance.

OUTSIDE ACTIVITIES

Q A public servant wished to sit on the board of directors of a new charity. The head of the group intended to ask the provincial government for funding. The requested funding was not from the public servant's ministry. Could the public servant join the board?

A **DIRECTION** The Commissioner determined that this person could join the board, on three conditions:

- 1) that he/she inform the Minister and the Minister approved;
- 2) that he/she recuse himself/herself from any discussions regarding funding, and any other issues that might involve the provincial government; and
- 3) that he/she not use any government resources.

Q A public servant wished to write free-lance articles on subjects not connected with his/her ministerial responsibilities. Is this activity acceptable?

A **DIRECTION** The Commissioner determined that this activity was acceptable, provided the individual obtained the minister's approval, and that the work was done without using any government resources, including time.

MISCELLANEOUS

Q A relative of a public servant is employed by a government stakeholder and the public servant's ministry has direct dealings with the employer. Can the public servant work on the file?

A **DIRECTION** In order to avoid a potential and perceived conflict of interest, the Commissioner directed that the public servant be screened from all files related to the relative and the relative's employer. Another member of staff was assigned to the file, and the Minister and deputy minister were formally advised of the screens put in place.

Q A public servant holds stock related to a specific sector that could potentially conflict with his/her work with the Crown. Should the public servant hold or sell the stock?

A **DIRECTION** In order to avoid a real or perceived conflict of interest, the Commissioner directed that the public servant was not to sell or trade the shares in that particular sector, and to not purchase any new stock or mutual funds in that sector until his/her position with the Crown ended. In addition, the Commissioner directed the public servant to provide copies of investment statements at six-month intervals and to notify the Office when his/her employment contract concluded in order to obtain advice about future dealings with the investments.

Q A former public servant was employed by two ministries in the 12 months preceding his/her departure from the Crown. What lobbying restrictions will apply?

A **DIRECTION** The former public servant was restricted from lobbying the Ministers, Ministers' staff and any public servants in both ministries in which he/she worked. The restriction is in effect for 12 months following his/her last day of work.

VIRTUE

in-teg-ri-ty
ACCOUNTABILITY
RESPONSIBILITY
HONESTY **ETHICS**

VIRTUE **UPRIGHTNESS**
TRANSPARENCY
Prudence
TRUSTWORTHINESS

Expenses Review

The Integrity Commissioner reviews the expenses for travel, meals, hospitality, and accommodation filed by a broad group of public servants. The goal is to encourage prudence and accountability when spending public funds.

MANDATES

The Office of the Integrity Commissioner reviews the travel, meal and hospitality expenses for two groups of public servants:

1. Cabinet Ministers, parliamentary assistants, leaders of the Opposition and their staff; and
2. senior executives, appointees and the top five employee expense claimants at 22 of Ontario's largest agencies, boards and commissions.

The responsibilities are found in two pieces of legislation:

1. *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002*; and
2. *Public Sector Expenses Review Act, 2009*.

The reviews are conducted using the Rules Governing the Expenses of Cabinet Ministers, Opposition Leaders and Other Persons, and the Ontario Travel, Meal and Hospitality Expenses Directive.

OVERVIEW

The Office's review of travel, meal and hospitality expense claims has had a positive impact on public sector accountability. Feedback suggests that the spending culture has changed and expenses have decreased through education and reinforcement of the policies. The Office has seen rising conformity with the rules and the directive.

The work is time-consuming and challenging, designed to ensure that the allowable expenses follow the directive or rules, and strike an appropriate balance between practicality and reasonableness, and the appropriate use of public funds.

Each expense mandate follows a similar review process. Expense claims arrive in the Office after they have been processed by the government or agency. The Office's staff of three reviews every individual claim and receipt, and where necessary goes back to the claimant to ask for more information. If a claim does not conform with the directive or rules, or is deemed inappropriate, the Commissioner may provide feedback to the claimant or ask for reimbursement. Expense claims are posted

online by each entity (Minister's office, agency, etc.) only after the claims pass the Office's review process.

Staff developed an effective and efficient process to conduct the reviews, and have spent many hours meeting and speaking with stakeholders to help them understand the rules. As a result, the Office has seen a demonstrated reduction in the number of information requests that arise from quarter to quarter.

A second expenses review assistant was added to staff at the beginning of the fiscal year to assist with the ministerial expenses and the Top 5 submissions from agencies. This additional resource has helped considerably in reducing the backlog of claims.

The Office thanks all staff associated in the review process at Queen's Park and the 22 agencies, boards and commissions for their continued effort and cooperation. (It should be noted that Ontario Realty Corporation and Infrastructure Ontario merged this year to become Ontario Infrastructure and Lands Corporation, reducing the number of reviewable organizations to 21 for subsequent periods.)

HONESTY

CABINET MINISTERS AND OPPOSITION LEADERS EXPENSES REVIEW

Last year the Office reviewed 1,106 claims on behalf of approximately 360 people.

Office staff were proactive in outreach and education. The provincial election resulted in considerable turn-over at Queen's Park, and staff made a concerted effort to train new and returning employees in the expense process, fostering an open-door environment. In 2010–2011 the review process was streamlined and there were changes to the implementation of the directive meal rates. Both changes were embraced by claimants, resulting in a reduction in the number of information requests, reduced expenditures and a more efficient review process.

REPORT TO THE SPEAKER

The Commissioner is required to provide the Speaker of the Legislative Assembly of Ontario with a written report on the review conducted under the *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002*.

The Commissioner can name in the report any person who does not comply with an order to repay or a recommendation for other action; however, the Commissioner cannot name a third party and cannot fault anyone for relying on her advice. In addition, the Commissioner may report on cases where advice regarding remedial action is not taken.

PUBLIC SECTOR EXPENSES REVIEW

Last year the Office reviewed 2,415 claims submitted on behalf of approximately 410 people at some of the province's largest agencies, boards and commissions.

In May, for the first time since receiving this mandate, the Office received a full year of claims from the Top 5 expense claimants at each body, representing 1,465 additional claims from 94 people. This annual submission is due to be filed within 60 days of the end of the fiscal year.

The volume of work has been considerable for both sides, but it has become evident that claimants are working to embrace the spirit and intent of the directive.

The Office has focused on outreach, meeting with stakeholders to help establish positive relationships, understand each agency's business and encourage understanding of the rules and the review process. The focus on outreach, education and discussion will continue to be a priority in the coming year.

EXPENSES
REVIEW

PRUDENCE

in-teg-ri-ty

ETHICS

ACCOUNTABILITY

RESPONSIBILITY

HONESTY

**Disclosure of
Wrongdoing**

Ensuring a meaningful response when
public servants make allegations
of wrongdoing.

UPRIGHTNESS

VIRTUE

TRANSPARENCY

Prudence

TRUSTWORTHINESS

MANDATE

As an independent third party, the Integrity Commissioner can receive and deal with allegations of wrongdoing from public servants working in ministries or public bodies. The main method of dealing with the allegation is to refer the matter to a senior official to

investigate and report back to the Commissioner. If the Commissioner is not satisfied with the response, an investigation can be launched. The Commissioner's authority is set out in Part VI of the *Public Service of Ontario Act, 2006*.

OVERVIEW

This is the fourth complete year of operation under the disclosure of wrongdoing framework. The case load and complexity have remained consistent from year to year.

The work of the Commissioner under this mandate is only one part of the picture. Deputy ministers and heads of provincial public bodies also have responsibility to receive and deal with allegations of wrongdoing. Resort to the Office is an avenue that is available when public servants believe it is not appropriate to make a disclosure internally.

A statutory review is due in 2012 and the Commissioner believes there is room for improvement in the legislation. The Office plans to contribute to the review to highlight areas that need improvement and, when possible, reflect the voices of public servants who have made disclosures and those who have contacted this Office but refrained from making a disclosure for fear of reprisal.

To prepare for the review and to evaluate the ongoing work, this year staff concluded a small-scale consultation. The Office consulted with public servants, deputy ministers, public body chairs and bargaining agents. The feedback showed that there is work to do to raise awareness of the disclosure of wrongdoing framework at all levels. It was encouraging to hear that senior leaders are committed to addressing wrongdoing when they learn about it. Unfortunately, many public

servants are not confident that their senior leaders will deal appropriately with allegations of wrongdoing. Scepticism sometimes arises because public servants lack trust in senior leaders to deal properly with day-to-day responsibilities such as fair and equitable hiring practices.

The law requires the Office protect the identities of all those involved with disclosures of wrongdoing. This requirement restricts the Commissioner's ability to report publicly about activities under this mandate. Protection of identities is beneficial to disclosers, witnesses and people alleged to be responsible for wrongdoing. It allows for allegations to be investigated without the identity of a discloser being known to the respondents, which reduces the risk of reprisal, and it allows for allegations to be substantiated before the identities of people responsible for wrongdoing become known.

Public servants have told staff that they would have greater confidence in the system if there was greater transparency about how disclosures are handled. The Office continues to advocate for greater transparency about disclosure of wrongdoing activities within the public service. This is a difficult balance to achieve because of the requirement that identities, rightly, be protected.

DISCLOSURE OF
WRONGDOING

TRANSPARENCY

INTAKE ACTIVITY

	2010-11	2011-12
Total Contacts from Public Servants	32	35
Requests for information	21	18
Intention to file a disclosure of wrongdoing	11	17
	2010-11	2011-12
Disposition of matters where a public servant sought to make a disclosure of wrongdoing (including matters carried over from the prior fiscal year)	18¹	19²
Referred to appropriate senior official for investigation or under investigation by the IC	8	3
Not received as a disclosure of potential wrongdoing because the allegations could not possibly reveal a "wrongdoing" as that term is defined in the Act	2	5
Received as a disclosure of potential wrongdoing, but the circumstances were outside the Office's jurisdiction	0	3
File closed for miscellaneous reasons (e.g., discloser decided not to proceed, insufficient information to determine jurisdiction)	6	5
Remaining under review at fiscal year-end	2	3

¹ Includes 11 inquiries in which the public servant expressed an intention to file a disclosure of wrongdoing, plus seven inquiries remaining under review at year-end 2010.

² Includes 17 inquiries in which the public servant expressed an intention to file a disclosure of wrongdoing, plus two inquiries remaining under review at year-end 2011.

UPRIGHTNESS

WHAT HAPPENS WHEN A DISCLOSURE IS MADE TO THE INTEGRITY COMMISSIONER?

1. The Commissioner determines whether the allegations can be received and dealt with as a disclosure of wrongdoing. This step involves asking: Is it a "wrongdoing" within the meaning of the Act? Is the Commissioner expressly restricted from dealing with the subject matter (e.g., labour and employment matters)? The Commissioner assumes the allegations are true for purposes of making this assessment.
2. The discloser, if known, "signs off" on the allegations.
3. The matter is referred for investigation to an appropriate senior official within a ministry or public body — usually a deputy minister or chief executive officer.
4. The senior official initiates an appropriately thorough and neutral investigation. (If the senior official has a conflict, the matter is referred back to the Commissioner.)
5. The senior official reports to the Commissioner.
6. The Commissioner scrutinizes the investigation report.
7. If necessary, the Commissioner asks questions and requires additional information to assess the conclusions made in the report.
8. If the Commissioner is not satisfied with the report, a new investigation is initiated by the Office.

CASE REPORTS

The Commissioner concluded five cases this year³. As of year end, there are three outstanding cases which are either the subject of a referral or an investigation by the Office.

CASE 1

ALLEGATION OF GROSS MISMANAGEMENT (REFERRAL)

It was alleged that a single public servant was responsible for gross mismanagement for making an organizational change relating to internal accountability, reporting inaccurate financial information, hiring staff without professional qualifications and making a particular decision. The matter was referred for investigation to a senior official.

The investigation established that all of the decisions at issue were the result of input and analysis from many public servants approved through ordinary channels. With respect to the allegation of inaccurate information,

the investigation established that the information was prepared in accordance with established criteria and scrutinized by three different levels of review, including a level that was external to the organization. With respect to the allegation about hiring, the position, as evidenced by the job descriptions, did not require professional qualifications.

The Commissioner accepted the findings of the investigation and concluded that there was no basis to make a finding of wrongdoing within the meaning of the Act.

DISCLOSURE OF
WRONGDOING

³Some of these cases were referred in 2010–2011, some in 2011–2012. Some of these cases had more than one discloser.

HONESTY

CASE 2**ALLEGATION OF IMPROPER CONDUCT
(INVESTIGATION)**

In relation to an ongoing investigation by the Commissioner (now concluded), it was alleged that a public servant acted improperly in relation to specific decisions. The Commissioner concluded that the conduct was explained by a lack of policy clarity within the ministry regarding the program area, and not improper conduct. These issues continue to be addressed by the Minister, and the Commissioner receives updates about progress.

Other specific allegations were made that cannot be disclosed in order to protect the identities of those involved with the disclosure. These allegations were considered in the course of the Commissioner's investigation and were not substantiated.

CASE 3**ALLEGATION THAT THE ACTIONS OF A PUBLIC
SERVANT CREATED A GRAVE DANGER TO THE LIFE,
HEALTH AND/OR SAFETY OF A PERSON (REFERRAL)**

It was alleged that a public servant knowingly created a grave danger and was responsible for communicating misleading information to prevent an individual in care at a provincial facility from receiving proper assistance. The matter was referred for an investigation. The investigation found that the allegations made in the disclosure were not substantiated. The Commissioner was satisfied with the findings and closed the file.

CASE 4**ALLEGATION OF AN IMPROPER INVESTIGATION
(REFERRAL)**

It was alleged that a prior workplace investigation did not meaningfully address the alleged improper conduct of a former public servant. No particulars regarding the conduct were provided or available. The matter was referred to determine on a preliminary basis whether there had been a previous investigation about the conduct of the public servant in question. The preliminary investigation conducted as a result of the referral indicated that the conduct of the former public servant had not been the subject of any investigation, so there was no basis for the Office to take further steps. The Commissioner was satisfied with the response and closed the file.

CASE 5**ALLEGATION ABOUT MANIPULATION OF
ATTENDANCE FIGURES (REFERRAL)**

It was alleged that attendance tracking figures were manipulated to improperly benefit a particular group of public servants. The matter was referred for investigation. The allegations were not substantiated. The Commissioner accepted the conclusions of the investigation and closed the file.

PRUDENCE

HOW DOES THE COMMISSIONER SCRUTINIZE THE INVESTIGATIONS COMPLETED BY SENIOR OFFICIALS?

The Commissioner asks "have the allegations of wrongdoing been meaningfully and appropriately addressed and were appropriate steps taken to address the wrongdoing (if identified) or prevent future wrongdoing (if none identified)?" In answering these questions, the Commissioner considers the following indicators of a good investigation:

- The investigation was completed by a neutral investigator and in an impartial and objective manner.
- The investigation applied sufficient scrutiny to the allegations and the evidence.
- The investigation was thorough, relying on a sufficient number of sources.
- Considering all the evidence, the investigator reached reasonable conclusions.
- In cases involving specialized areas, the conclusions drawn are consistent with best practices in the industry/area at issue in the report. Where such an assessment requires technical knowledge of the specialized area, the investigator has the appropriate knowledge to gauge the issues relating to best practices; or, if not, he or she appropriately consulted with those who do have the requisite specialized knowledge.

THREAT OF REPRISAL

The risk of reprisal is a significant disincentive for public servants to make disclosures and participate in the subsequent investigation. Public servants continue to seek assurances that the protections in the legislation will work in their favour.

Allegations of reprisal are dealt with through grievance processes, the Ontario Labour Relations Board or the Public Service Grievance Board. This year, the Public Service Grievance Board issued two decisions on its jurisdiction to deal with reprisals. The Office of the Integrity Commissioner welcomes consideration of this issue by Ontario labour tribunals and arbitrators so that public servants can gain a deeper understanding of how the protection will be applied in practice.

SHARING BEST PRACTICES

In November, Office staff attended a national meeting of disclosure of wrongdoing officers in Winnipeg. Along with the federal government, disclosure of wrongdoing legislation is in place in Saskatchewan, Manitoba, Ontario, Newfoundland and Labrador, New Brunswick and Nova Scotia. The national meeting is an opportunity for disclosure of wrongdoing practitioners to share best practices and lessons learned. All Canadian jurisdictions with disclosure of wrongdoing officers are at early stages in the work, so there is much to be shared and learned.

DISCLOSURE OF
WRONGDOING

ETHICS

in-teg-ri-ty

ETHICS

ACCOUNTABILITY

RESPONSIBILITY

HONESTY

Lobbyists Registration

A robust lobbyists registration system provides government and the public with transparency about who is talking to whom in government, and about what.

UPRIGHTNESS

VIRTUE

TRANSPARENCY

Prudence

TRUSTWORTHINESS

MANDATE

The Office maintains an online public record of paid lobbyists. The database is searchable and outlines each lobbyist's name, company, client or employer, the lobbying activity and the targeted ministry or agency.

The Integrity Commissioner is the province's Lobbyists Registrar.

This responsibility is found in the *Lobbyists Registration Act, 1998*.

OVERVIEW

The Lobbyists Registrar continues to advocate for a legislative review of the Act, maintaining it is time to update Ontario's law and learn from the experiences of other jurisdictions. The issues for review include whether the Registrar should have investigative or inquiry powers, and what tools will best encourage compliance.

Discussions have been held with the government and leaders of the two opposition parties as the Office pushes for a thorough and considered review of the legislation. Staff have conducted extensive research into key issues and will be prepared to provide recommendations for amendments to the Act.

Education efforts gained momentum through the year. The Registrar was in high demand as a speaker, appearing at conferences and on panels to discuss trends in the industry and to acquaint people with the Act. The Office initiated training sessions for lobbyists, and used these opportunities to listen to the issues and concerns lobbyists have with the registry, its process, and with the Act. Staff updated materials on the website, and launched an internal review of all communications materials. One key undertaking resulted in the production of four new interpretation bulletins, which provide additional clarity and transparency about the registry. More interpretation bulletins will be prepared in the coming year.

In addition to raising awareness about the existence and purpose of the registry, the Office continued its day-to-day operations: administering the registration system and supporting lobbyists in registering their activities. Efforts are ongoing to obtain more information about the scope of lobbying activities occurring at the provincial level. Most lobbyists have been accommodating in this regard and their continued cooperation is appreciated.

The Office receives a wide range of queries from lobbyists seeking information on everything from how to register and explanations of the differences among the types of lobbyists to clarification about the disclosure of government funding information. Many lobbyists also had specific questions for the Registrar, and received advisory opinions to guide them through the registration process.

The Office has launched an internal review of the website operations and registration process as part of the information technology renewal project. The majority of this work is expected to be concluded in the next fiscal year.

REGISTRATION ACTIVITY

	MARCH 31, 2011	MARCH 31, 2012
TOTAL REGISTRATIONS	1,689	1,562
TYPE		
Consultants	1,301	1,154
In-House, Organizations	219	218
In-House, Persons & Partnerships	169	190

LOBBYISTS
REGISTRATION

RESPONSIBILITY

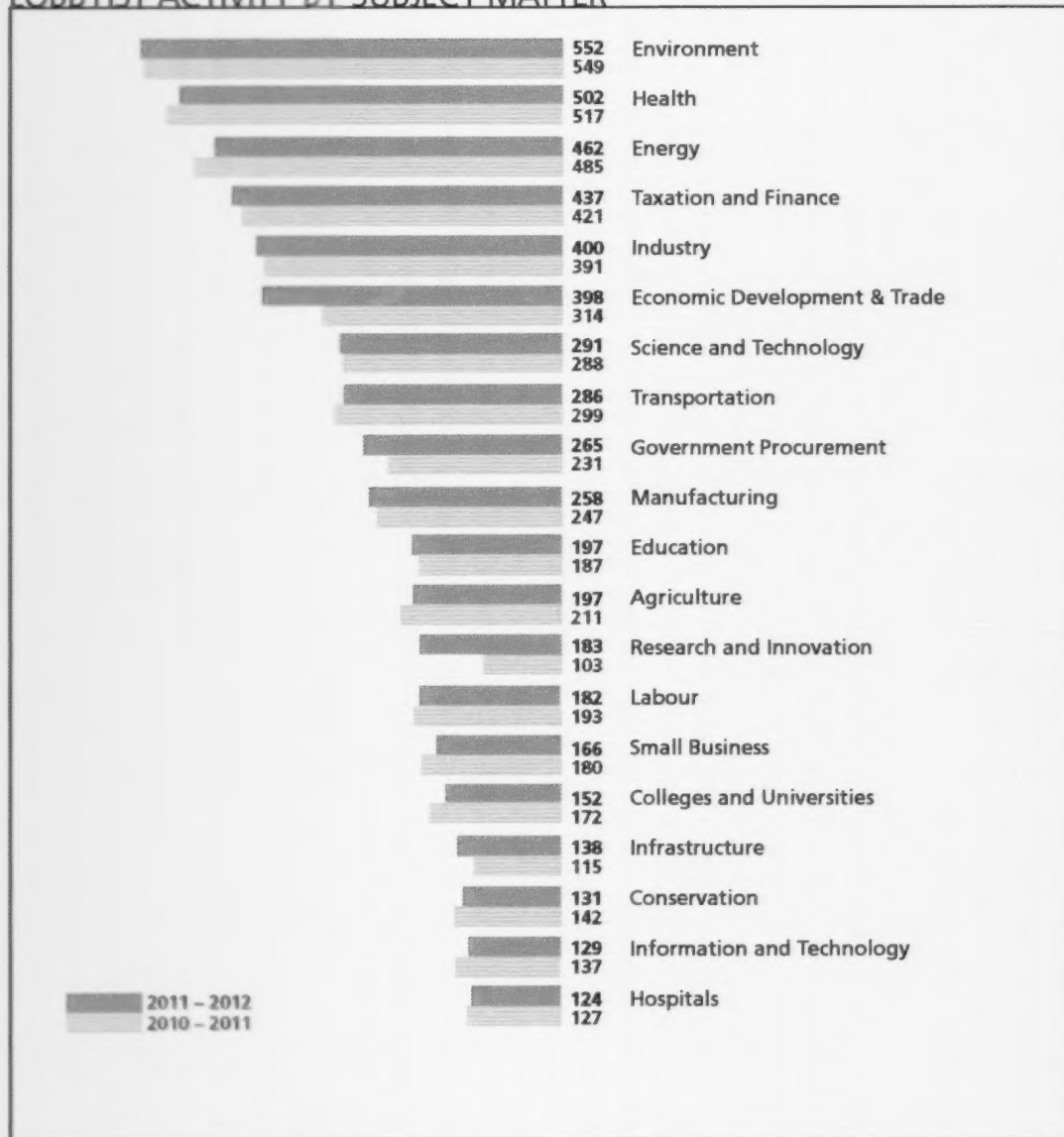
LOBBYIST ACTIVITY BY MINISTRY/AGENCY



*The Ministry of Economic Development & Trade and the Ministry of Research & Innovation were combined to form the Ministry of Economic Development & Innovation in October 2011.

ACCOUNTABILITY

LOBBYIST ACTIVITY BY SUBJECT MATTER



LOBBYISTS
REGISTRATION

TRANSPARENCY

in-teg-ri-ty

ETHICS

ACCOUNTABILITY

RESPONSIBILITY

HONESTY

**Outreach
and Financial
Statement**

Consultations, Meetings, Community
Groups, Foreign Delegations.

UPRIGHTNESS

VIRTUE

TRANSPARENCY

Prudence

TRUSTWORTHINESS

OUTREACH

The Integrity Commissioner and her staff were in demand for speeches, panel appearances and training sessions. Among the appearances:

- Speech to a Public Affairs Association of Canada meeting on lobbying rules
- Speech to a meeting of provincial municipal integrity commissioners
- Canadian Institute panel discussion on lobbyist registration issues
- Canadian Institute panel discussion on accountability offices in Canada
- Transparency International panel discussion on government and ethics
- Presentation to Mississauga City Council
- Presentation to delegation of Nigerian judges
- Canadian Conflict of Interest Network annual meeting in Victoria, B.C.
- Meetings of Lobbyists Registrars and Commissioners of Canada in Edmonton and Ottawa
- Presentation to delegation of Chinese government officials
- Presentation to members of the Society of Adjudicative Registrars
- Speech to current and prospective political staff workers (Seneca College)
- Speech to Legislation Day meeting of Trillium Chapter of Canadian Society of Association Executives
- Presentations to new members of the Legislative Assembly
- Presentation to Ontario Deputy Ministers' Council
- Meeting of Canadian protected public interest disclosure officers in Winnipeg
- Speech at Canadian Institute, Fundamentals of Administrative Law Conference
- Speech at Association of Law Officers of the Crown/Government of Ontario Educational Conference
- Presentation at orientation session for new chairs of provincial public bodies
- Presentation to Secretary of Tanzanian Ethics Secretariat
- Presentation to Association of Municipalities of Ontario
- Presentation to Master of Public Policy Administration and Law students, York University

HONESTY

OUTREACH
& FINANCIAL
STATEMENT

FINANCIAL STATEMENT

Salaries and Benefits	\$1,145,844.00
Transportation and Communication	\$ 54,116.00
Services	\$ 525,907.00
Supplies and Equipment	\$ 127,274.00
TOTAL	\$1,853,141.00

- The Office of the Integrity Commissioner's fiscal year begins April 1 and ends March 31.
- Financial transactions are subject to audit by the Office of the Auditor General through the accounts of the Office of the Assembly.
- Information about the *Public Sector Salary Disclosure Act, 1996* can be found at www.fin.gov.on.ca.

PROACTIVE DISCLOSURE

Expense claims for travel, meals and hospitality for the Office's senior management and employees with claims exceeding \$5,000 can be found at www.oico.on.ca.

UPRIGHTNESS

in-teg-ri-ty

COPIES OF THIS AND OTHER ONTARIO GOVERNMENT PUBLICATIONS ARE AVAILABLE AT

777 Bay St., Toronto, ON M5G 2C8 or ServiceOntario, 110 Laurier Ave. W., Ottawa, ON K1P 1J1

Out-of-town customers may write to: Publications Ontario, 50 Grosvenor St., Toronto, ON M7A 1N8

Telephone 416 326-5300, or Toll-free in Ontario 1-800-668-9938, Fax 613 566-2234

Hearing impaired customers may call Toll-free in Ontario 1-800-268-7095.

Visa and MasterCard are accepted.

This report is also available in PDF format at www.oico.on.ca

Cette publication est aussi disponible en français.

ISSN 1205-6391 (PRINT)

ISSN 1918-0357 (ONLINE)

JUNE, 2012

in-teg-ri-ty

ETHICS

ACCOUNTABILITY

RESPONSIBILITY

HONESTY

TRUSTWORTHINESS

TRANSPARENCY

OFFICE OF THE INTEGRITY COMMISSIONER,

Suite 2101, 2 Bloor Street East,

Toronto, ON M4W 1A8

Telephone: 416-314-8983 / 1-866-884-4470

Fax: 416-314-8987

www.oico.on.ca

HONESTY

ETHICS

RESPONSIBILITY

Prudence

UPRIGHTNESS

VIRTUE